

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Harold Rodriguez	Team: Squad #11	CCRB Case #: 201805423	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input checked="" type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Sunday, 05/13/2018 1:00 AM	Location of Incident: Ocean Avenue and Lincoln Road	Precinct: 71	18 Mo. SOL 11/13/2019	EO SOL 11/13/2019	
Date/Time CV Reported Mon, 06/25/2018 3:00 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Tue, 07/03/2018 11:02 AM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Bernard Walker	07781	961579	TB DT32
2. POM Ivens Pierre	21872	959897	TB DT32
3. An officer			Unknown

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Gregory Thiemer	21650	960021	TB DT32
2. POM Jotwo Edwards	20181	930091	TB DT32
3. POM Arsalan Alam	18381	961603	TB DT32
4. POM Corey Hughes	12911	960690	TB DT32
5. POM Kamil Suchcicki	14398	952273	TB DT32
6. SGT Jasim Uddin	00147	949750	TB DT32

Officer(s)	Allegation	Investigator Recommendation
A.POM Bernard Walker	Abuse: Police Officer Bernard Walker stopped § 87(2)(b)	
B.POM Ivens Pierre	Abuse: Police Officer Ivens Pierre stopped § 87(2)(b)	
C.POM Bernard Walker	Abuse: Police Officer Bernard Walker stopped § 87(2)(b)	
D.POM Ivens Pierre	Abuse: Police Officer Ivens Pierre stopped § 87(2)(b)	
E.POM Bernard Walker	Abuse: Police Officer Bernard Walker questioned § 87(2)(b)	
F. An officer	Abuse: An officer questioned § 87(2)(b)	
G. An officer	Off. Language: An officer made remarks to § 87(2)(b) based upon the perceived sexual orientation of an individual.	

Case Summary

Sergeant Anthony Ramos of Transit District 32 contacted the Office of the Deputy Commissioner of Equal Employment Opportunity (DCEEO) that on June 25, 2018, after witnessing police misconduct while reviewing Police Officer Bernard Walker's body camera footage. Sergeant Anissa Payne of DCEEO called the IAB command center on the same day and reported Sgt. Ramos' observations, generating log number 18-24739. The complaint was received at the CCRB on July 3, 2018.

On May 13, 2018, at approximately, 1:00 a.m., an unidentified individual had a cell phone stolen on a train by three females. Police Officer Bernard Walker and Police Officer Ivens Pierre of Transit District 32 stood on the platform of the N/B/Q trains at Fulton Street in Brooklyn. An individual noted as § 87(2)(b) in PO Walker's memo book, stepped off the train and approached PO Walker and PO Pierre. § 87(2)(b) told the officers that he was informed by other passengers that three females were going through people's pockets on the train. PO Walker, PO Pierre and § 87(2)(b) exited the train station and § 87(2)(b) pointed out § 87(2)(b) and a third unidentified individual. PO Walker and PO Pierre stopped § 87(2)(b) and § 87(2)(b) while the third individual fled (**Allegations A, B, C and D - Abuse of Authority:** § 87(2)(g)). § 87(2)(b) left the location after pointing out the females. Either PO Walker or PO Pierre called for backup over the radio and several officers from the 71st Precinct and Transit District 32 canvassed the area for the third female. § 87(2)(b) and § 87(2)(b) were placed into separate police vehicles and questioned about the robbery by PO Walker and an unidentified officer (**Allegations E and F - Abuse of Authority:** § 87(2)(g)). While § 87(2)(b) was questioned in the police vehicle by PO Walker about the description of the third alleged perpetrator, an officer asked § 87(2)(b) "Is she a dyke?" (**Allegation G – Offensive Language:** § 87(2)(g)).

Although § 87(2)(b) and § 87(2)(b) withdrew their complaints, this case was investigated because of an offensive language comment being captured on PO Walker's body-worn camera footage.

This case was reassigned from Investigator John Butler to the undersigned investigator on November 28, 2018 following his departure from the agency.

Findings and Recommendations

Allegation A – Abuse of Authority: Police Officer Bernard Walker stopped § 87(2)(b)

Allegation B – Abuse of Authority: Police Officer Ivens Pierre stopped § 87(2)(b)

Allegation C – Abuse of Authority: Police Officer Bernard Walker stopped § 87(2)(b)

Allegation D – Abuse of Authority: Police Officer Ivens Pierre stopped § 87(2)(b)

Allegation E – Abuse of Authority: Police Officer Bernard Walker questioned § 87(2)(b)

Allegation F – Abuse of Authority: An officer questioned § 87(2)(b)

§ 87(2)(b) provided an unverified telephone statement on August 21, 2018 (Board Review 01). § 87(2)(b) testified that she and § 87(2)(b) were questioned by officers about a cell phone theft. They were questioned in separate vehicles about the incident. § 87(2)(b) did not want to complain about the officers and withdrew from the complaint, confirming that she was not coerced by the NYPD or CCRB. § 87(2)(b)'s withdrawal is in IA 24, at the 11:40 mark.

§ 87(2)(b) provided an unverified statement to the CCRB on September 6, 2018 (Board Review 02). She stated that she was intoxicated and did not recall most of the incident, therefore did not want to complain about the officers. § 87(2)(b) recalled being questioned along with § 87(2)(b) about a stolen cell phone, but did not provide any further details about the incident. § 87(2)(b) withdrew her portion of the complaint and was not coerced by NYPD or CCRB to do so. § 87(2)(b)'s withdrawal is in IA40, at the 6:53 mark.

Investigative Manager Edwin Peña reviewed the withdrawals of § 87(2)(b) and § 87(2)(b) and confirmed that they adhered to agency standard.

Allegation F – Offensive Language: An officer made remarks to § 87(2)(b) based upon the perceived sexual orientation of an individual.



201805423_20181219_0932_DM.mp4

PO Walker's body worn camera footage captures PO Walker questioning § 87(2)(b) inside of a vehicle. The camera is out in front of PO Walker and only captures his face and partially captures § 87(2)(b)'s face, however there is little to no light inside of the vehicle. No other officer is seen throughout the video. PO Walker questions § 87(2)(b) about a suspect that fled and the conversation is as follows:

PO Walker: You know what she had on?

§ 87(2)(b) It wasn't a girl.

PO Walker: Wait, hold on. Did she have on jeans with like... no belt?

§ 87(2)(b) Uhh yeah...

Unidentified officer: Was she a dyke?

§ 87(2)(b) Yeah.

During her unverified phone statement, § 87(2)(b) did not identify the third female and had no recollection because she was intoxicated.

PO Walker stated that he spoke with § 87(2)(b) inside of a police vehicle for 10-15 minutes to identify the female that fled. He did not recall if there was another officer in the vehicle with him. He did not recall hearing any officer say the word "dyke" during this incident. PO Walker was shown the video clip from his body camera and he did not recognize the voice of the person that makes the comment.

PO Pierre and PO Thiemer were interviewed at the CCRB and were shown the video of the incident. They did not recognize the voice of the individual that makes the comment, "Is she a dyke?" and did not recall any officer making that statement.

Although the person that makes the comment could not be seen in the video, it is assumed that the comment came from an officer based on context. Since the camera is only facing PO Walker and § 87(2)(b) it is unknown if the source of the voice comes from within the police vehicle or from an officer standing outside of the vehicle.

Since § 87(2)(b) was the only civilian in the vehicle and she withdrew from the complaint, the CCRB was unable to use her assistance to identify any officers in her immediate vicinity. Additionally, § 87(2)(b) admitted to being intoxicated and did not remember specific details of the incident.

The undersigned investigator and former Investigator Butler went to One Police Plaza on July 30, 2018 and viewed unaltered versions of all available body camera videos related to this incident. The comment was not captured in any of the other videos. After viewing the videos, NYPD Legal Bureau determined that the CCRB would no longer receive access to the videos without an unsealing order, as the footage included the presence of a minor. PO Walker's body camera footage was eventually released with redactions to the CCRB, however as of November 14, 2018, NYPD Legal Bureau maintained that they would not be releasing any additional videos.

§ 87(2)(g)

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) has been a party (Board Review 06).
- This is the first CCRB complaint to which § 87(2)(b) has been a party (Board Review 07).
- PO Walker has been a member of service for two years and this is the first CCRB complaint to which he has been a subject.

Mediation, Civil and Criminal Histories

- This complaint was not suitable for mediation.
- As of January 7, 2019, the Office of the New York City Comptroller has no record of a Notice of Claim being filed in regards to this complaint.
- According to the Office of Court Administration (OCA), § 87(2)(b) has no history of convictions in New York City.
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Squad No.: _____

Investigator:	_____	_____	_____
	Signature	Print Title & Name	Date

Squad Leader:	_____	_____	_____
	Signature	Print Title & Name	Date

Reviewer:	_____	_____	_____
	Signature	Print Title & Name	Date